

FIRST REGULAR SESSION

# HOUSE BILL NO. 556

## 98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WOOD.

1426H.011

D. ADAM CRUMBLISS, Chief Clerk

### AN ACT

To repeal sections 211.031 and 211.036, RSMo, and to enact in lieu thereof two new sections relating to reentry of children released from children's division custody.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 211.031 and 211.036, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 211.031 and 211.036, to read as follows:

211.031. 1. Except as otherwise provided in this chapter, the juvenile court or the family court in circuits that have a family court as provided in sections 487.010 to 487.190 shall have exclusive original [jurisdiction in] **authority over** proceedings:

(1) Involving any child or person seventeen years of age who may be a resident of or found within the county and who is alleged to be in need of care and treatment because:

(a) The parents, or other persons legally responsible for the care and support of the child or person seventeen years of age, neglect or refuse to provide proper support, education which is required by law, medical, surgical or other care necessary for his or her well-being; except that reliance by a parent, guardian or custodian upon remedial treatment other than medical or surgical treatment for a child or person seventeen years of age shall not be construed as neglect when the treatment is recognized or permitted pursuant to the laws of this state;

(b) The child or person seventeen years of age is otherwise without proper care, custody or support; [or]

(c) The child or person seventeen years of age was living in a room, building or other structure at the time such dwelling was found by a court of competent jurisdiction to be a public nuisance pursuant to section 195.130; **or**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (d) The child or person seventeen years of age is a child in need of mental health services  
18 and the parent, guardian or custodian is unable to afford or access appropriate mental health  
19 treatment or care for the child;

20 (2) Involving any child who may be a resident of or found within the county and who  
21 is alleged to be in need of care and treatment because:

22 (a) The child while subject to compulsory school attendance is repeatedly and without  
23 justification absent from school; or

24 (b) The child disobeys the reasonable and lawful directions of his or her parents or other  
25 custodian and is beyond their control; or

26 (c) The child is habitually absent from his or her home without sufficient cause,  
27 permission, or justification; or

28 (d) The behavior or associations of the child are otherwise injurious to his or her welfare  
29 or to the welfare of others; or

30 (e) The child is charged with an offense not classified as criminal, or with an offense  
31 applicable only to children; except that, the juvenile court shall not have jurisdiction over any  
32 child fifteen years of age who is alleged to have violated a state or municipal traffic ordinance  
33 or regulation, the violation of which does not constitute a felony, or any child who is alleged to  
34 have violated a state or municipal ordinance or regulation prohibiting possession or use of any  
35 tobacco product;

36 (3) Involving any child who is alleged to have violated a state law or municipal  
37 ordinance, or any person who is alleged to have violated a state law or municipal ordinance prior  
38 to attaining the age of seventeen years, in which cases jurisdiction may be taken by the court of  
39 the circuit in which the child or person resides or may be found or in which the violation is  
40 alleged to have occurred; except that, the juvenile court shall not have jurisdiction over any child  
41 fifteen years of age who is alleged to have violated a state or municipal traffic ordinance or  
42 regulation, the violation of which does not constitute a felony, and except that the juvenile court  
43 shall have concurrent jurisdiction with the municipal court over any child who is alleged to have  
44 violated a municipal curfew ordinance, and except that the juvenile court shall have concurrent  
45 jurisdiction with the circuit court on any child who is alleged to have violated a state or  
46 municipal ordinance or regulation prohibiting possession or use of any tobacco product;

47 (4) For the adoption of a person;

48 (5) For the commitment of a child or person seventeen years of age to the guardianship  
49 of the department of social services as provided by law; [and]

50 (6) Involving an order of protection pursuant to chapter 455 when the respondent is less  
51 than seventeen years of age; **and**

52           **(7) Involving any youth under twenty-one years of age for whom a petition to**  
53 **return the youth to children's division custody has been filed under section 211.036.**

54           2. Transfer of a matter, proceeding, jurisdiction or supervision for a child or person  
55 seventeen years of age who resides in a county of this state shall be made as follows:

56           (1) Prior to the filing of a petition and upon request of any party or at the discretion of  
57 the juvenile officer, the matter in the interest of a child or person seventeen years of age may be  
58 transferred by the juvenile officer, with the prior consent of the juvenile officer of the receiving  
59 court, to the county of the child's residence or the residence of the person seventeen years of age  
60 for future action;

61           (2) Upon the motion of any party or on its own motion prior to final disposition on the  
62 pending matter, the court in which a proceeding is commenced may transfer the proceeding of  
63 a child or person seventeen years of age to the court located in the county of the child's residence  
64 or the residence of the person seventeen years of age, or the county in which the offense pursuant  
65 to subdivision (3) of subsection 1 of this section is alleged to have occurred for further action;

66           (3) Upon motion of any party or on its own motion, the court in which jurisdiction has  
67 been taken pursuant to subsection 1 of this section may at any time thereafter transfer jurisdiction  
68 of a child or person seventeen years of age to the court located in the county of the child's  
69 residence or the residence of the person seventeen years of age for further action with the prior  
70 consent of the receiving court;

71           (4) Upon motion of any party or upon its own motion at any time following a judgment  
72 of disposition or treatment pursuant to section 211.181, the court having jurisdiction of the cause  
73 may place the child or person seventeen years of age under the supervision of another juvenile  
74 court within or without the state pursuant to section 210.570 with the consent of the receiving  
75 court;

76           (5) Upon motion of any child or person seventeen years of age or his or her parent, the  
77 court having jurisdiction shall grant one change of judge pursuant to Missouri supreme court  
78 rules;

79           (6) Upon the transfer of any matter, proceeding, jurisdiction or supervision of a child or  
80 person seventeen years of age, certified copies of all legal and social documents and records  
81 pertaining to the case on file with the clerk of the transferring juvenile court shall accompany the  
82 transfer.

83           3. In any proceeding involving any child or person seventeen years of age taken into  
84 custody in a county other than the county of the child's residence or the residence of a person  
85 seventeen years of age, the juvenile court of the county of the child's residence or the residence  
86 of a person seventeen years of age shall be notified of such taking into custody within  
87 seventy-two hours.

88           4. When an investigation by a juvenile officer pursuant to this section reveals that the  
89 only basis for action involves an alleged violation of section 167.031 involving a child who  
90 alleges to be home schooled, the juvenile officer shall contact a parent or parents of such child  
91 to verify that the child is being home schooled and not in violation of section 167.031 before  
92 making a report of such a violation. Any report of a violation of section 167.031 made by a  
93 juvenile officer regarding a child who is being home schooled shall be made to the prosecuting  
94 attorney of the county where the child legally resides.

95           5. The disability or disease of a parent shall not constitute a basis for a determination that  
96 a child is a child in need of care or for the removal of custody of a child from the parent without  
97 a specific showing that there is a causal relation between the disability or disease and harm to  
98 the child.

          211.036. **1. If a youth under the age of twenty-one is released from the custody of the**  
2 children's division and after such release it appears that it would be in such youth's best interest  
3 to have his or her custody returned to the children's division, the juvenile officer, the children's  
4 division or the youth may petition the court to return custody of such youth to the division until  
5 the youth is twenty-one years of age. **The petition shall be filed in the court that previously**  
6 **exercised authority over the youth under section 211.031. If such petition is not heard**  
7 **within six months of the filing date, the petition may be filed in the court where the youth**  
8 **resides or in the court of an adjacent county. In deciding if it is in the best interests of the**  
9 **youth to be returned to the custody of the division under this section, the court shall**  
10 **consider the following factors:**

11           **(1) The circumstances of the youth;**

12           **(2) Whether the children's division has services or programs in place that will**  
13 **benefit the youth and assist the youth in transitioning to self-sufficiency; and**

14           **(3) Whether the youth has the commitment to fully cooperate with the division in**  
15 **developing and implementing a case plan.**

16

17 **The court shall not return a youth to the custody of the division who has been committed**  
18 **to the custody of another agency; who is under a legal guardianship; or who has pled guilty**  
19 **or who has been found guilty of a felony criminal offense or misdemeanor except for traffic**  
20 **offenses.**

21           **2. The youth shall cooperate with the case plan developed for the youth by the**  
22 **children's division in consultation with the youth.**

23           **3. For purposes of this section, a "youth" is any person eighteen years of age or**  
24 **older and under twenty-one years of age who was in the custody of the children's division**  
25 **in foster care at any time in the two-year period preceding the youth's eighteenth birthday.**

26           **4. The court may, upon motion of the children's division or the youth, terminate**  
27 **care and supervision before the youth's twenty-first birthday if the division does not have**  
28 **services available for the youth or if the youth declines to cooperate with the case plan.**

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